

Message Text

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ACTION EB-07

INFO OCT-01 ARA-06 ISO-00 STR-04 FMC-01 IO-11 L-03 CIAE-00

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FM AMEMBASSY GUATEMALA

TO SECSTATE WASHDC 1133

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E.O. 11652: N/A

TAGS: EWWT, GT

SUBJ: GUATEMALAN ADHERENCE TO UN LINER CONFERENCE CONDUCT CODE

REF: A. STATE 058714, B. 75 GUATEMALA 4967, C. 75 STATE 209479

SUMMARY: LEGAL STEPS RE GUATEMALA ADHERENCE TO UN LINER CONFERENCE CONDUCT CODE HAVE BEEN COMPLETED. PRIVATE GUATEMALAN SHIPPING COMPANY HAS SUGGESTED CONGRESS PASS BILL INSTITUTING 40-40-20 CARGO-SHARING FORMULA OF CODE, BUT PURPOSE IS MORE TO CUT BACK PERCEIVED GROWTH OF POWER OF STATE-OWNED MERCHANT LINE THAN TO ADVANCE NEW ORDER OF WORLD SHIPPING. BILL HAS NOT BEEN FORMALLY PUT TO CONGRESS AND MAY NEVER BY. IS REPRESENTATIVE OF CONFUSION HERE RE UN CODE. END SUMMARY.

1. APPRECIATE REPORT REF. A RE DEPOSIT IN NEW YORK MARCH 3 OF GOG INSTRUMENT OF ADHERENCE TO UNCTAD CONVENTION ON CODE OF CONDUCT FOR LINER CONFERENCES. NEWS HERE DID NOT APPEAR UNTIL MARCH 28. EARLIER, ON MARCH 23, DECREE 57-75 FINALLY PUBLISHED IN OFFICIAL GAZETTE, GIVING APPROVAL OF GUATEMALAN CONGRESS TO GOG SIGNATURE OF CONVENTION. SAME DAY OFFICIAL NOTICE PRINTED OF COMPLETION OF RATIFICATION PROCESS IN SIGNATURE THEREOF BY PRESIDENT, RECORDED AS HAVING TAKEN PLACE FEBRUARY 18.

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2. ACCORDING INFORMED SOURCES, PRESIDENT HAD DELAYED SIGNATURE OF RATIFICATION, PASSED BY CONGRESS AUGUST 19, 1975, SINCE QUESTION HAD BEEN RAISED WITH GOVERNMENT AS TO COMPATIBILITY OF FORMUAL OF CARGO SHARING CALLED FOR IN CODE (40 ERCENT FOR LINES OF ONE TRADING COUNTRY, 40 PERCENT FOR LINES OF OTHER TRADE PARTNER, 20 PERCENT FOR THIRD-COUNTRY LINES) WITH ASSIGNMENT OF DUTY-FREE OF "EXONERATED" CARGO TO GUATEMALA AND ASSOCIATED LINES UNDER DECREE 41-71 (WHICH GIVES THOSE LINES 60 PERCENT- 80 PERCENT OF TOTAL IMPORT S).

HOW THIS MATTER WAS RESOLVED NOT KNOWN. HOWEVER, ACCORDING ONE SOURCE, STATE LINE FLOMERCA HAD PRESSED ARGUMENT THAT CODE AND DECREE FORMULAE ARE COMPATIBLE. EXONERATED IMPORTS WOULD BE TREATED OUTSIDE OF TRADE COVERED BY CODE; LATTER WOULD RELATE TO ONLY TO EXPORTS PLUS NON-EXONERATED IMPORTS ON GIVEN ROUTE. ON IMPORTS THUS FLOMERCA WOULD GET 60-80 PERCENT OF TOTAL (EXONERATED) PLUS ITS SHARE IN THE 40 PERCENT OF THE REMAINING IMPORTS (NON-EXONERATED) UNDER THE 40-40-20 FOMULA. (EMBASSY CANNOT FIND PROVISION IN CODE FOR SUCH EXEMPTION OF PART OF TRADE FROM OPERATION OF FORMULA AND WOULD APPRECIATE DEPARTMENT ADVICE WHETHER THIS POSSIBLE.)

3. OTHER SHIPPING INTERESTS HERE MAINTAIN THAT WHEN AND IF CODE COMES INFO EFFECT AND LINER CONFERENCES FORMED, ALL RPT ALL TRADE BETWEEN GUATEMALA AND GIVEN POINTS WOULD COME UNDER 40-40-20 FORMULA. THESE INCLUDE REPRESENTATIVES OF FOREIGN SHIPPING LINES HERE PLUS PROBABLY BOTH PRIVATE-SECTOR GUATEMALAN LINES.

4. ONE OF THESE PRIVATE LINES, ARMAGUA, INDEED HAS SENT TO PRESIDENT OF CONGRESS DRAFT OF LAW WHICH WOULD REQUIRE 40-40-20 DIVISION OF ALL CARGO AND ANNUAL DECREE 41-71. BILL (COPY OF WHICH PROVIDED EMBASSY IN CONIFDENCE) WOULD ESTABLISH GUATEMALAN MARITIME COMMISSION WITH REPRESENTATIVES FROM STATE AND PRIVATE SHIPPING LINES AND FROM MINISTRY OF COMMUNICATIONS (NOT ECONOMY). WOULD HAS THIS BODY ADMINISTER CARGO ASSIGNMENT AND WOULD CANCEL PREVIOUS ASSOCIATION AGREEMENTS WITH FOREIGN LINES (BY FLOMERCA) WHEN GUATEMALAN LINES ABLE TO HANDL TRAFFIC LIMITED OFFICIAL USE

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ON ROUTES SERVED. LAW, HOWEVER, WOULD LIMIT RESERVE OF CARGO UNDER 40-40-20 FORMULA TO ONLY THOSE FOREIGN LINES WHHOSE COUNTRIES HAD SIGNED UN CODE CONVENTION. (AT PRESENT THIS WOULD RESTRICT FOREIGN-FLAG SHIPPING WITH GUATEMALA TO THE 13 OTHER ADHERENTS TO THE CONVENTION, OF WHICH ONLY VENEZUELA AND CHILE ARE UNDERSTOOD TO BE IN WESTERN HEMISPHERE. EMBASSY WOULD APPRECIATE HAVING LIST OF THE 12 OTHER COUNTRIES THAT HAD SIGNED CONVENTION

ON OR BEFORE JUNE 30, 1975 DEADLINE BUT HAVE NOT YET RATIFIED, OUTSIDE OF FRANCE, FRG, USSR, AND JAPAN - REF. C.)

5. DRAFT LAW HAS NO STANDING IN CONGRESS UNTIL PRESENTED BY A DEPUTY, WHICH MAY OR MAY NOT OCCUR. ARMAGUA IN PAST WITH ITS ONE SHIP HAS BENEFITTED FROM DECREE 41-71 THROUGH SALE TO FOREIGN LINES OF WAIVERS OF PENAL PROVISIONS OF LAW WHEN THOSE LINES NOT ASSOCIATED WITH FLOMERCA AND WERE SEEKING TO BRING IN EXONERATED CARGO. NOW WITH PROSPECT OF POOLING AGREEMENT BETWEEN FLOMERCA AND DELTA AND THEREBY A TAKE-OVER OF MUCH OF CARGO BY THESE TWO LINES, ARMAGUA APPARENTLY FEELS ABROGATION OF DECREE 41-71 SYSTEM AND INSTITUTION OF 40-40-20 FORMULA TO BE MORE TO ADVANTAGE OF PRIVATE GUATEMALAN LINES.

6. ARMAGUA BILL HAS NOT ATTRACTED ANY MENTION IN PRESS, AND LITTLE MAY BE FURTHER HEARD OF IT. PROPOSED LAW IS REPRESENTATIVE OF CONTINUED CONFUSION IN MINDS OF GUATEMALANS OVER NATURE OF CONFERENCE CODE AND CONTRIBUTION IT MIGHT MAKE TO BEST INTERESTS OF GUATEMALAN TRADE. EMBASSY WILL REPORT FURTHER AS DEVELOPMENTS WARRANT.
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